



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,180	11/16/2001	Minh Q. Hoang	P-4980P1	8581

7590 08/13/2002

Richard J. Rodrick
Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 07417

EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
----------	--------------

1751

5

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

53

Office Action Summary

Application No.

09/991,180

Applicant(s)

HOANG ET AL.

Examiner

Necholus Ogden

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

Art Unit: 1751

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al (5,439,681) in view of Kaiser et al (5,955,408).

Art Unit: 1751

Khan et al disclose a anti-microbial composition comprising 0.5 to 3.75% by weight of parachlorometaxylenol; from 1 to 6% by weight of a nonionic surfactant; from 2 to 12% by weight of an anionic surfactant; from 5 to 15% by weight of a moisturizer; from 2 to 12% by weight of a builder; from 0.1 to 1% by weight of a thickener; and from 60 to about 85% by weight of water (pg. 4, lines 5-22). Khan et al further include 6 to about 12% by weight of anionic surfactants such as sulfated phenol ethoxylates; alkyl aryl sulfonates and salt of sulfated nonylphenoxypoly(ethyleneoxy)ethanol and foam builders such as ammonium fatty sulfosuccinates (col. 6, lines 35-68). Moreover, said composition comprises emollients such as glycerine, propylene glycol, lanolin and lanolin derivatives (col. 7, lines 10-52). Note, see examples I and II.

Khan et al teach all of the instantly required except applicant's supplemental anionic alkyl isethionate surfactant.

Kaiser et al disclose a disinfectant composition comprising anionic surfactants such as sulfosuccinates, sulfonates and isethionates.

It would have been obvious to one of ordinary skill in the art to include an anionic surfactant such as isethionate to the composition of Khan et al because Kaiser et al teach that said isethionates are typical anionic surfactants used in anti-microbial cleansing compositions (col. 2, lines 22-31). Therefore, absent a showing to the contrary, one skilled in the cleansing art would have been motivated to include said isethionate anionic surfactant in view of the teachings disclosed in Kaiser et al.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser et al (5,955,408).

Art Unit: 1751

Kaiser et al disclose a disinfectant composition comprising anionic surfactants such isethionates and antimicrobial agents such as triclosan (col. 1, lines 30-40). Specifically, Kaiser et al teach triclosan and ammonium cocoyl isethionate in their requisite proportions.

Kaiser et al is silent with respect to viscosity of the claimed composition.

It would have been obvious to one of ordinary skill in the art to expect the composition of Kaiser et al to encompass a viscosity limitation as claimed by applicant because Kaiser et al teach all of the preferred components in an example and one of ordinary skill would expect similar composition to inherently possess similar characteristics, absent a showing to the contrary.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 703-308-3732. The examiner can normally be reached on Monday-Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 703-308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3599 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 09/991,180

Page 5

Art Unit: 1751


Nicholas Ogden
Primary Examiner
Art Unit 1751

no

August 12, 2002